FEB 5 1986

COMPLETED GA/13 RCED-86-67FS

United States General Accounting Office

GAO

Fact Sheet for the Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, House of Representatives

December 1985

NATIONAL PARKS

Allegations Concerning Yosemite National Park Drug Investigation

GAO/RCED-86-67 FS

BEST COPY AVAILABLE

UNITED STATES GENERAL ACCOUNTING OFFICE
REGIONAL OFFICE
SUITE 900, 1275 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94103
(415) 556-6200

IN REPLY REFER TO:

December 20, 1985

B-221431

The Honorable Bruce F. Vento
Chairman, Subcommittee on National
Parks and Recreation
Committee on Interior and Insular Affairs
House of Representatives

Dear Mr. Chairman:

We are providing the enclosed fact sheet in response to your request of October 23, 1985, that we examine allegations made about a drug investigation conducted by Yosemite National Park's Law Enforcement Office. On November 20, 1985, we briefed you on the results of our inquiry. As agreed at the briefing, this fact sheet summarizes information on each of the 11 allegations. As discussed with you, because of time limitations and the fact that we performed only limited tests of files and transactions, the enclosed fact sheet contains no conclusions or recommendations.

We conducted our inquiry at Yosemite National Park, Yosemite, California; the National Park Service Western Regional Office in San Francisco, California; the National Park Service Headquarters in Washington, D.C.; and the Office of Inspector General, Department of the Interior, in Washington, D.C. We also conducted work at the San Francisco Division of the Drug Enforcement Administration, Department of Justice, and at the U.S. Attorney's Office in Fresno, California. We interviewed Interior and Justice officials, as well as former staff of the Yosemite Law Enforcement Office.

Our inquiry was made between October 28, 1985, and December 16, 1985. We reviewed and relied extensively on an August 28, 1985, report prepared by the Office of Inspector General, Department of the Interior, which addressed a number of the allegations. We also relied extensively on workpapers prepared by the Chief, Division of Finance, National Park Service, Western Region, during a June 1984 investigation into allegations of improper use of the Yosemite Law Enforcement Office imprest fund.

I

BEST COPY AVAILABLE

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this fact sheet until 30 days from the date of issuance. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Thomas P. McCormick

Thomas P. McCormick
Regional Manager

Enclosure

BEST COPY AVAILABLE

II

ENCLOSURE

ENCLOSURE

ALLEGATIONS CONCERNING YOSEMITE NATIONAL PARK DRUG INVESTIGATION

On October 15, 1985, the Subcommittee on National Parks and Recreation held an oversight hearing regarding operations at Yosemite National Park in California. At this hearing, 11 allegations were made regarding the conduct of the Yosemite Law Enforcement Office (LEO) during the course of a drug investigation. The allegations concerned:

--Obstruction of justice.

--Suppression of exculpatory evidence.

--Tampering with physical evidence.

--Falsification and embellishment of criminal reports.

--Misrepresentation and possible perjury before the grand jury.

--Misuse of government imprest funds.

--Violations of Office of Personnel Management (OPM) and National Park Service (NPS) policies and guidelines.

--Routine unauthorized use of government vehicles.

--Acceptance of supplemental second salaries for work performed on government time.

--Falsification of overtime pay requests.

--Falsification of government imprest vouchers.

Allegations regarding misuse of imprest funds and the receipt of second salaries for work performed on government time were addressed in an August 28, 1985, report by the Department of the Interior Office of Inspector General (OIG). The OIG report concluded (1) that LEO personnel used imprest funds for purposes not permitted by guidelines and did not maintain appropriate accounting records, and (2) that the Chief Law Enforcement Officer was paid for teaching at a junior college during working hours without taking annual leave. The OIG investigator also addressed the allegations concerning tampering with physical evidence, unauthorized use of government vehicles, and falsification of overtime pay requests. However, the investigator told us he did not include these allegations in his report because no evidence was found to support the allegations.

BEST COPY AVAILABLE

ENCLOSURE

The OIG referred the improper use of imprest funds to the U.S. Attorney, who declined to prosecute because no personal profit or gain was shown to have resulted. The OIG also referred the improper use of imprest funds and other findings to the NPS for administrative action. NPS officials told us on December 16, 1985, that they have delayed responding to the OIG report to give Yosemite National Park sufficient time to deal with the sensitive nature of the findings. NPS expects to formally respond to the OIG report in January 1986.

BACKGROUND

Yosemite National Park established the LEO in 1972 to handle criminal investigations. In August 1981 LEO initiated a broad investigation into drug trafficking, prostitution, embezzlement, and other criminal acts alleged to have been committed in Yosemite by employees of the park's concessionaire. As a result of the initial investigation, LEO and the U.S. Attorney decided to limit further investigative work to drug trafficking activities. In September 1982 the Chief Law Enforcement Officer obtained $1,000 from the Yosemite Park Superintendent and another $1,000 from the Yosemite Natural History Association to purchase drugs and information to be used as evidence. The fund, which became known as the "snow fund," continued to operate at about the $2,000 level until it was discontinued.

To provide a continuing official source of funds for purchases of evidence and information, the park established an imprest fund in October 1982. Purchases made after that date were made with monies from both the snow fund and the imprest fund. We were told by the Chief Law Enforcement Officer that the snow fund was used primarily during nonworking hours and was subsequently reimbursed from the imprest fund. Between October 1982 and the conclusion of the drug investigation in June 1984 imprest fund expenditures totaled $45,384.

National Park Service Western Region and Yosemite National Park officials exercised little oversight of the LEO drug investigation. They told us they gave the Chief Law Enforcement Officer a free hand in directing the investigation and coordinating with the U.S. Attorney because of the need for secrecy to protect LEO undercover investigators and informants.

Over the course of the LEO drug investigation, evidence was presented to a federal grand jury in Fresno, California which led to 19 indictments, 38 guilty pleas or convictions, 1 deferred prosecution, and 8 pending actions. Thirty-five of the cases involved concessionaire employees selling cocaine and 25 cases involved sales of marijuana. Most of the cocaine sales involved 1 gram or less. Most marijuana sales ranged from 2 to 7 grams.

BEST COPY AVAILABLE

ENCLOSURE

According to the Assistant U.S. Attorney, LEO investigations also led to narcotics arrests by federal authorities outside of Yosemite National Park.

RESULTS OF OUR INQUIRY

Obstruction of Justice

It was alleged that information on the background and conduct of many LEO investigators and informants that would have diminished their credibility before the grand jury was not in LEO files. Specifically, it was alleged that one investigator with a criminal background was hired and given a law enforcement commission. It was further alleged that another investigator had a criminal background and was falsely represented to the grand jury as a commissioned officer.

We confirmed that an investigator with a conviction for possession of a small amount of marijuana was hired and given a law enforcement commission. However, according to the Assistant U.S. Attorney, such a conviction would not have diminished the investigator's credibility before the grand jury.

We could not determine from information in the files whether the second investigator had a criminal background. He was hired without a commission from a local police agency where he was involved in a similar undercover drug operation. The Assistant U.S. Attorney told us that this investigator was not represented to the grand jury as a commissioned officer.

To see if there was a pattern of problems in documenting the background of investigators and informants, we examined the files of 4 of the 10 investigators and 8 of the 28 informants. We checked to determine if the files contained any information on whether the investigators and informants (1) had criminal records prior to their employment by LEO and (2) had been found with illegal drugs in their possession while working for LEO. Three of the four investigator files and five of the eight informant files contained information on whether or not the investigators and informants had criminal records. One file included a report that an LEO investigator found drugs in the possession of an informant during a pre-buy search.

Suppression of Exculpatory Evidence

It was alleged that searches of informants prior to and after drug buys were discouraged by the assistant to the Chief Law Enforcement Officer and that reports of drugs found on informants during two pre-buy searches were not included in LEO

BEST COPY AVAILABLE

files. It was also alleged that reports on the mental competence of one informant were excluded from the files and were not investigated.

A total of 114 drug buys were made between October 1982 and June 1984. We randomly selected 10 buys that were supervised by various LEO staff to determine whether procedures for searching informants were followed. For 6 of the 10 buys, reports prepared by LEO staff showed that required pre-buy searches for drugs, money, and weapons were made. For one buy the required search was not performed. The remaining three buys did not require searches because an investigator accompanied the informant making the buy. All 10 buys were surveilled by LEO staff either visually or by wire or both.

We discussed the handling of searches with a representative of the OIG and with the Assistant U.S. Attorney. Both said that informants should be searched. However, they said the lack of a pre-buy search record would probably be immaterial in court proceedings if the buy was tape-recorded.

We examined LEO files to determine if, as alleged, reports of drugs found during two pre-buy searches were excluded. For one buy the files disclosed an informant was found in possession of drugs during the pre-buy search. This buy was tape-recorded. We could find no files regarding the second buy.

The LEO files on the informant alleged to have serious mental problems included investigative notes about the informant's unusual behavior. The Assistant U.S. Attorney told us that the informant was interviewed in his office and that both he and the defense attorney were aware of the informant's erratic behavior.

Tampering With Physical Evidence

It was alleged that physical evidence disappeared from the LEO evidence room. Two instances were alleged: destruction of a urine sample from an undercover investigator and disappearance of hashish confiscated during a pre-buy search of an informant.

Neither we nor the OIG were able to determine what happened to the urine sample. The OIG did not investigate the allegation regarding the hashish, and we could find no record of the confiscation of hashish during the pre-buy search when it allegedly occurred.

BEST COPY AVAILABLE

ENCLOSURE

The physical controls over access to the evidence room were examined by the OIG and found to be "less than fully satisfactory." We were told by the assistant to the Chief Law Enforcement Officer that all drug investigators had uncontrolled access to the evidence room.

Falsification and Embellishment of Criminal Reports

It was alleged that two investigators routinely had their reports written by others and that as a result the reports were inaccurate. It was also alleged that the investigators' notes were destroyed.

From examining LEO files we could not tell who prepared the drug investigation reports. Discussions with supervisors and other investigative staff disclosed that the two investigators in question routinely received assistance in preparing their reports. According to the Chief Law Enforcement Officer, it was a common practice to provide assistance to investigators who had problems with writing, and this assistance resulted in more readable reports.

The Chief Law Enforcement Officer denied investigators' notes were destroyed. For the final reports we reviewed, the notes prepared by the two investigators were available, and they appeared to conform to the reports. The investigators who wrote the original notes also signed the final reports.

Misrepresentation and Possible Perjury Before the Grand Jury

It was alleged that the character and criminal history of undercover investigators and informants were misrepresented to the grand jury. It was further alleged that falsified or embellished investigative reports were presented to the grand jury.

The allegation regarding the character and criminal history of investigators and informants was discussed earlier. With regard to the allegedly falsified or embellished reports, the Assistant U.S. Attorney told us he would not present evidence to the grand jury that could not be corroborated.

Misuse of Government Imprest Funds

It was alleged that monies were improperly disbursed from the LEO imprest fund to pay for the personal expenses of one LEO undercover investigator. The personal expenses cited were rent, automobile repairs, and food.

BEST COPY AVAILABLE

We randomly selected 11 disbursements totaling $1,223 from the 53 disbursements made to the undercover investigator in question. The Chief Law Enforcement Officer told us that, based on his recollection, $903 was used for meals, bar tabs, and lodging. He was unable to provide any information on the remaining $320. Verifiable documentation was available for only $371 in lodging costs.

We also examined imprest fund disbursements to an informant who received $9,425, or 21 percent, of the $45,384 disbursed from the fund. LEO records showed that $3,835 was used for drug purchases for investigative purposes and $1,480 was used to pay some of the informant's prior drug debts. The use of the remaining $4,110 was undocumented. The Chief Law Enforcement Officer and his assistant told us the $4,110 was given to the informant for his services in making drug purchases and providing information and for paying drug debts. They also said some of the monies were used to relocate the informant away from Yosemite after his association with LEO became known.

In late May 1984 the Chief, Division of Finance, National Park Service Western Region was requested by NPS headquarters to assess allegations regarding possible improper use of LEO imprest funds. His report dated June 26, 1984, stated that disbursements of imprest funds for LEO employee expenses, including bar tabs, were not properly documented and may not be legal. This finding was included in the OIG report forwarded to NPS on August 28, 1985.

Violations of OPM and NPS Policies and Guidelines

It was alleged that, contrary to Office of Personnel Management and NPS quidelines, a LEO staff member's law enforcement training was paid for prior to his being hired. It was also alleged that written procedures for disbursement and management of the imprest fund were not followed.

The OIG investigated both allegations. According to the OIG report, the Chief Law Enforcement Officer acknowledged financing the tuition and living expenses of a staff member at Santa Rosa Junior College in California before the staff member was hired. The OIG concluded the funds were used in violation of federal personnel regulations.

With regard to the second allegation, National Park Service Western Region procedures required that imprest fund monies be disbursed only upon receipt of a request signed by both a

BEST COPY AVAILABLE

ENCLOSURE

requester and an approving official, who cannot be the same person. The procedures further required that LEO submit a "Quarterly Status of Funds and Cases Report" to the Western Region.

The OIG report stated that the imprest fund cashier was not furnished operating instructions and that she disbursed monies from the fund when the Chief Law Enforcement Officer signed as both the requester and the approving official. The OIG report also stated that LEO did not submit the required Quarterly Status of Funds and Case Reports to the Western Region. We were told by the Chief Law Enforcement Officer that he initially forgot the reports were required, and subsequently the region stopped asking for them.

Routine Unauthorized Use of Government Vehicles

It was alleged that the Chief Law Enforcement Officer used government vehicles to travel to Santa Rosa Junior College, where he occasionally teaches a law enforcement course.

The Chief Law Enforcement Officer told the OIG and us that he used a government vehicle on occasion to go to Santa Rosa but only when he conducted government business in addition to his teaching. The OIG investigator told us he reviewed this allegation and found no evidence that the Chief Law Enforcement Officer used government vehicles without proper authorization.

Acceptance of Supplemental Second Salaries for Work Performed on Government Time

It was alleged that the Chief Law Enforcement Officer and another LEO staff member received pay for second jobs performed during their normal duty hours.

The OIG investigation established that the Chief Law Enforcement Officer received compensation from the state of California for teaching at Santa Rosa Junior College while employed by NPS. The OIG found that he taught 176 hours during his regular duty hours and did not take annual leave. The Chief Law Enforcement Officer told the OIG that he was on "compensatory time" approved by his supervisor. The supervisor told the OIG that he allowed the Chief Law Enforcement Officer to use compensatory time only for the purpose of preparing lesson plans and that annual leave was to be charged for time spent teaching class.

The OIG did not look into the second allegation regarding a LEO staff member receiving dual compensation from Yosemite National Park while allegedly employed simultaneously as an

BEST COPY AVAILABLE

undercover LEO investigator and as a park maintenance laborer. We were unable to confirm or refute this allegation. However, the Yosemite National Park personnel officer told us that she was certain the staff member did not receive dual compensation. She said that the staff member in question was reclassified from laborer to investigator in October 1982 and that Yosemite's personnel records showed the employee used the same social security number on both the laborer and investigator jobs. She said the park payroll system will not process more than one payroll check for a given social security number. Because of time constraints, we did not verify the internal controls of the park payroll system.

Falsification of Overtime Pay Requests

It was alleged that there were inadequate controls over the overtime paid to LEO staff and that 26 hours of unearned overtime was retroactively approved for one LEO staff member.

The Chief Law Enforcement Officer did not formally authorize overtime in advance, as required by NPS regulations. He told us that the irregular nature of investigative work often required employees to work extra hours on an impromptu basis. He said his staff used an honor system in reporting their overtime and that he routinely accepted and approved the overtime submitted. Overtime payments related to the LEO drug investigation totaled about $170,000.

The OIG investigation addressed the 26-hour overtime payment in question. The OIG investigator told us that an OIG staff member had contacted the employee and was satisfied the payment was proper.

Falsification of Government Imprest Vouchers

It was alleged that LEO staff were directed to sign as the requesting or approving official for the disbursement of monies from the imprest fund without knowing how it was to be used. It was further alleged that many disbursements were made for undocumented expenses and that one investigator incurred expenses many months prior to submission of the voucher for payment.

We reviewed 90 imprest fund disbursements totaling $9,453 and found 10 instances amounting to $1,240 where LEO staff signed as either the requesting or the approving official and annotated that they did not know what the monies were being used for. We were told by the Chief Law Enforcement Officer that many of these payments were reimbursements to the snow fund for monies used to purchase evidence.

BEST COPY AVAILABLE

ENCLOSURE

Imprest fund records showed that 65 of the 90 disbursements were for the purchase of information. These expenditures were not documented in accordance with imprest fund guidelines.

The OIG report addressed the allegation that one investigator was not timely in the submission of vouchers for payment. The OIG questioned the payment of travel vouchers totaling $1,260 which were submitted between 5 and 12 months after the expenses were incurred, because of their untimeliness and the lack of documentation.

©U.S. Government Printing Office : 1986 - 491-237/46053

(140707)

BEST COPY AVAILABLE

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are $2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.